

§ 1304.2

exclude such articles from the ban. If the sale or use of the product by consumers is facilitated, it is subject to the ban. Patching compounds which are labeled as, marketed, and sold solely for industrial use in non-consumer environments are not subject to the ban. In addition to those products which can be sold directly to consumers, the ban applies to patching compounds containing respirable free-form asbestos which are used in residences, schools, hospitals, public buildings or other areas where consumers have customary access.

§ 1304.2 Purpose.

The purpose of this rule is to ban consumer patching compounds containing intentionally added respirable, free-form asbestos. These products present an unreasonable risk of injury due to inhalation of fibers which increase the risk of developing cancer, including lung cancer and mesothelioma, diseases which have been demonstrated to be caused by exposure to asbestos fibers.

§ 1304.3 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) apply to this part 1304.

(b) *Asbestos* means a group of mineral fibers composed of hydrated silicates, oxygen, hydrogen, and other elements such as sodium, iron, magnesium, and calcium in diverse combinations and are: Amosite, chrysotile, crocidolite, anthophyllite asbestos, actinolite asbestos, and tremolite asbestos.

(c) *Free-form asbestos* is that which is not bound, or otherwise "locked-in" to a product by resins or other bonding agents, or which can readily become airborne with any reasonably foreseeable use.

(d) *Patching compounds* are mixtures of talc, pigments, clays, casein, ground marble, mica or other similar materials and a binding material such as asbestos which are sold in a dry form ready to be mixed with water, or such combinations in ready-mix paste form.

(e) *Consumer patching compounds* are those that are customarily produced or distributed for sale to or for the personal use, consumption or enjoyment of consumers in or around a permanent

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or temporary household or residence, a school, in recreation or otherwise. The Commission considers that patching compounds for application in these consumer environments are either distributed for sale to or are for the personal use or enjoyment of consumers.

(f) *Intentionally-added asbestos* is asbestos which is (1) added deliberately as an ingredient intended to impart specific characteristics; or, (2) contained in the final product as the result of knowingly using a raw material containing asbestos. Whenever a manufacturer finds out that the finished product contains asbestos, the manufacturer will be considered as knowingly using a raw material containing asbestos, unless the manufacturer takes steps to reduce the asbestos to the maximum extent feasible.

(g) *Initial introduction into commerce* occurs when the manufacturer ships a product covered by this regulation from a facility of the manufacturer to a distributor, retailer, or user.

§ 1304.4 Consumer patching compounds as banned hazardous products.

On the basis that airborne asbestos fibers present the hazards of cancer, including lung cancer and mesothelioma to the public, consumer patching compounds containing intentionally-added, respirable free-form asbestos, which have been manufactured or initially introduced into commerce after January 16, 1978, are banned hazardous products. In addition, all other consumer patching compounds containing intentionally-added, respirable free-form asbestos, no matter when manufactured or initially introduced into commerce, are banned hazardous products after June 11, 1978.

§ 1304.5 Findings.

(a) *The degree and nature of the risk of injury.* The Commission finds that the risk of injury which this regulation is designed to eliminate or reduce is from cancer, including lung cancer and mesothelioma. In assessing the degree and nature of the risk of injury to consumers, the Commission has reviewed experimental data and human experience information. The Commission noted that in the scientific literature,